

SENATE No. 903

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Timilty

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act further regulating tanning facilities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James E. Timilty	Bristol and Norfolk
Demetrius J. Atsalis	Second Barnstable
Robert A. O'Leary	Cape and Islands
William Smitty Pignatelli	4th Berkshire
Steven J. D'Amico	4th Bristol
Susan C. Fargo	Third Middlesex
Kay Khan	11th Middlesex
John A. Hart, Jr.	First Suffolk
John W. Scibak	2nd Hampshire
Richard J. Ross	9th Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S02708 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT FURTHER REGULATING TANNING FACILITIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 111 of the General Laws is hereby amended by striking out
2 sections 207 and 208, as appearing in the 2006 Official Edition, and inserting in place thereof the
3 following 2 sections: -

4 Section 207. For the purposes of sections 208 to 214, inclusive, the following words shall have
5 the following meanings unless the context clearly indicates otherwise,:

6 “Board”, the board of health, including the board or officer having like powers and duties in
7 towns where there is no board of health, with jurisdiction in the community in which a tanning facility is
8 located.

9 “Operator”, a trained person designated by the licensee and registered with the board to control
10 the operation of a tanning facility in compliance with this section and sections 208 to 213, inclusive, and
11 to assist and instruct the public in the correct operation of the tanning facility and its equipment.

12 “Phototherapy device”, a piece of equipment that emits ultraviolet radiation and is used by health
13 care professionals in the treatment of disease.

“Tanning device”, a piece of equipment used for tanning the skin that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers including, but not limited to, a tanning booth, tanning bed, sunlamp or other high pressure tanning lamp and any accompanying equipment including, but not limited to, protective eyewear, timers and handrails.

“Tanning facility”, a location, place, area, structure or business which provides access to a tanning device.

Section 208. (a) No person shall operate a tanning facility without a license issued by the board. A license granted under this section shall expire 1 year after the date of issuance. The fee for a license and for the annual renewal thereof shall be \$250.

(b) Applications for license and annual renewals shall be made on forms prescribed and made available by the board. The board shall require at least the following information on the application for a license to operate a tanning facility: the name, physical address, mailing address and telephone number of the applicant owner and the tanning facility and the following additional information:

(1.) the manufacturer, model number, serial number, year and month of manufacture and type of tanning device located within the facility;

(2.) the primary function of the business in which the tanning facility is located;

(3.) the geographic areas within the commonwealth to be covered, if the facility is mobile;

(4.) copies of any posted warnings or other notices which are not required by this section and which address the safe or proper use of devices and protective gear;

(5.) copies of consent forms and statements which consumers, parents or guardians will be required to sign pursuant to this chapter;

(6.) names and addresses of the tanning devices suppliers, installers, operators and service agents;

- (7.) a copy of the operating procedures to be used in the tanning facility;
- (8.) the hours of operation of the tanning facility;
- (9.) the name of the on-site manager of the tanning facility; and
- (10.) a signed and dated certification that the applicant has received, read and understood the requirements of this chapter.

(c) No license granted under this section shall be transferable to any other person or facility.

(d) The board shall inspect a tanning facility within 30 days of licensure and every 6 months thereafter.

(e) A licensee who violates this section or sections 209 to 213, inclusive, or any other applicable law, rule or regulation shall have 7 days after written notice of violation to comply with the laws, rules or regulations. If after 7 days, the violation still exists the board may revoke the license.

(f) A person aggrieved by a determination of the board pursuant to sections 207 to 213, inclusive, may appeal to the department within 20 days of that determination. Either party aggrieved by a determination of the department may appeal that decision pursuant to section 14 of chapter 30A.

SECTION 2. Section 210 of said chapter 111, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

No tanning facility shall employ a person under 18 years of age as an operator or permit him operate a tanning device. A tanning facility shall register a person employed as an operator with the board within 30 days of the operator's first day of employment. There shall be a 1-time registration fee of \$25 for each operator registered by the tanning facility. A tanning facility shall at all times during operating hours have an operator who shall, as part of his regular duties, provide sanitized protective eyewear and towels. No person shall use a tanning device without protective eyewear.

58 SECTION 3. Said chapter 111 is hereby further amended by striking out section 211, as so
59 appearing, and inserting in place thereof the following section:-

60 Section 211. (a) No person under the age of 16 shall use a tanning device.

61 (b) No person 16 years of age to 17 years of age, inclusive, shall use a tanning device without the prior
62 written consent of a parent or legal guardian. Before obtaining consent, the tanning facility shall provide
63 to the parent or guardian a copy of the warnings required under section 209. The parent or guardian shall
64 sign a statement in the presence of the operator acknowledging receipt and understanding of the warnings.
65 The operator shall sign the written consent form as a witness to the signing of the parent or guardian.